

AN ACT

relating to the regulation of dyslexia practitioners and therapists; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle G, Title 3, Occupations Code, is amended by adding Chapter 403 to read as follows:

CHAPTER 403. LICENSED DYSLEXIA PRACTITIONERS AND LICENSED DYSLEXIA THERAPISTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 403.001. DEFINITIONS. In this chapter:

(1) "Commissioner" means the commissioner of state health services.

(2) "Department" means the Department of State Health Services.

(3) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(4) "License holder" means a person who holds a license issued under this chapter.

(5) "Multisensory structured language education" means a program described by the International Multisensory Structured Language Education Council for the treatment of individuals with dyslexia and related disorders that provides instruction in the skills of reading, writing, and spelling:

(A) through program content that includes:

- 1                    (i) phonology and phonological awareness;
- 2                    (ii) sound and symbol association;
- 3                    (iii) syllables;
- 4                    (iv) morphology;
- 5                    (v) syntax; and
- 6                    (vi) semantics; and
- 7                    (B) following principles of instruction that
- 8 include:

- 9                    (i) simultaneous multisensory instruction,
- 10 including visual-auditory-kinesthetic-tactile instruction;
- 11                    (ii) systematic and cumulative
- 12 instruction;
- 13                    (iii) explicit instruction;
- 14                    (iv) diagnostic teaching to automaticity;
- 15 and
- 16                    (v) synthetic and analytic instruction.

17                    (6) "Qualified instructor" means a person described by

18 Section 403.110.

19                    Sec. 403.002. ADMINISTRATION BY DEPARTMENT OF STATE HEALTH

20 SERVICES. The department shall administer this chapter.

21                    Sec. 403.003. APPLICABILITY. This chapter does not:

- 22                    (1) require a school district to employ a person
- 23 licensed under this chapter;
- 24                    (2) require an individual who is licensed under
- 25 Chapter 501 to obtain a license under this chapter; or
- 26                    (3) authorize a person who is not licensed under
- 27 Chapter 401 to practice audiology or speech-language pathology.

1 [Sections 403.004-403.050 reserved for expansion]

2 SUBCHAPTER B. POWERS AND DUTIES

3 Sec. 403.051. ADVISORY COMMITTEE. The department shall  
4 appoint an advisory committee to advise the department in  
5 administering this chapter.

6 Sec. 403.052. RULES. The executive commissioner shall  
7 adopt rules necessary to administer and enforce this chapter,  
8 including rules that establish standards of ethical practice.

9 [Sections 403.053-403.100 reserved for expansion]

10 SUBCHAPTER C. LICENSE REQUIREMENTS

11 Sec. 403.101. LICENSE REQUIRED. A person may not use the  
12 title "licensed dyslexia practitioner" or "licensed dyslexia  
13 therapist" in this state unless the person holds the appropriate  
14 license under this chapter.

15 Sec. 403.102. ISSUANCE OF LICENSE. The department shall  
16 issue a licensed dyslexia practitioner or licensed dyslexia  
17 therapist license to an applicant who meets the requirements of  
18 this chapter.

19 Sec. 403.103. LICENSE APPLICATION. (a) A license  
20 applicant must apply to the department on a form and in the manner  
21 the department prescribes.

22 (b) The application must be accompanied by a nonrefundable  
23 application fee.

24 Sec. 403.104. ELIGIBILITY FOR LICENSED DYSLEXIA  
25 PRACTITIONER LICENSE. (a) To be eligible for a licensed dyslexia  
26 practitioner license, an applicant must have:

27 (1) earned a bachelor's degree from an accredited

1 public or private institution of higher education;

2 (2) successfully completed at least 45 hours of course  
3 work in multisensory structured language education from a training  
4 program that meets the requirements of Section 403.106;

5 (3) completed at least 60 hours of supervised clinical  
6 experience in multisensory structured language education;

7 (4) completed at least five demonstration lessons of  
8 the practice of multisensory structured language education, each  
9 observed by an instructor from a training program that meets the  
10 requirements of Section 403.106 and followed by a conference with  
11 and a written report by the instructor; and

12 (5) successfully completed a national multisensory  
13 structured language education competency examination approved by  
14 the department and administered by a national certifying  
15 professional organization.

16 (b) Clinical experience required under Subsection (a)(3)  
17 must be obtained under:

18 (1) the supervision of a qualified instructor or an  
19 instructor from an accredited training program that meets the  
20 requirements of Section 403.106; and

21 (2) guidelines approved by the department.

22 Sec. 403.105. ELIGIBILITY FOR LICENSED DYSLEXIA THERAPIST  
23 LICENSE. (a) To be eligible for a licensed dyslexia therapist  
24 license, an applicant must have:

25 (1) earned at least a master's degree from an  
26 accredited public or private institution of higher education;

27 (2) successfully completed at least 200 hours of

1 course work in multisensory structured language education from a  
2 training program that meets the requirements of Section 403.106;

3 (3) completed at least 700 hours of supervised  
4 clinical experience in multisensory structured language education;

5 (4) completed at least 10 demonstration lessons of the  
6 practice of multisensory structured language education, each  
7 observed by an instructor from a training program that meets the  
8 requirements of Section 403.106 and followed by a conference with  
9 and a written report by the instructor; and

10 (5) successfully completed a national multisensory  
11 structured language education competency examination approved by  
12 the department and administered by a national certifying  
13 professional organization.

14 (b) Clinical experience required under Subsection (a)(3)  
15 must be obtained under:

16 (1) the supervision of a qualified instructor or an  
17 instructor from an accredited training program that meets the  
18 requirements of Section 403.106; and

19 (2) guidelines approved by the department.

20 Sec. 403.106. REQUIREMENTS FOR TRAINING PROGRAMS. (a) For  
21 purposes of determining whether an applicant satisfies the training  
22 requirements for a license under this chapter, a multisensory  
23 structured language education training program completed by the  
24 applicant must:

25 (1) be accredited by a nationally recognized  
26 accrediting organization;

27 (2) have in writing defined goals and objectives,

1 areas of authority, and policies and procedures;

2 (3) have the appropriate financial and management  
3 resources to operate the training program, including a  
4 knowledgeable administrator and standard accounting and reporting  
5 procedures;

6 (4) have a physical site, equipment, materials,  
7 supplies, and environment suitable for the training program;

8 (5) have a sufficient number of instructional  
9 personnel who have completed the requirements for certification in  
10 multisensory structured language education;

11 (6) have been reviewed by multisensory structured  
12 language education professionals who are not affiliated with the  
13 training program;

14 (7) have developed and followed procedures to maintain  
15 and improve the quality of training provided by the program;

16 (8) have provided direct instruction in the principles  
17 and in each element of multisensory structured language education  
18 for a minimum of:

19 (A) 200 contact hours of course work for training  
20 program participants who seek a licensed dyslexia therapist  
21 license; and

22 (B) 45 contact hours of course work for training  
23 program participants who seek a licensed dyslexia practitioner  
24 license;

25 (9) have required training program participants to  
26 complete a program of supervised clinical experience in which the  
27 participants provided multisensory structured language education

1 to students or adults, either individually or in small groups for a  
2 minimum of:

3 (A) 700 hours for training program participants  
4 who seek a licensed dyslexia therapist license; and

5 (B) 60 hours for training program participants  
6 who seek a licensed dyslexia practitioner license;

7 (10) have required training program participants to  
8 demonstrate the application of multisensory structured language  
9 education principles of instruction by completing demonstration  
10 lessons observed by an instructor and followed by a conference with  
11 and a written report by the instructor; and

12 (11) have provided instruction based on the Texas  
13 Education Agency publication "The Dyslexia Handbook: Procedures  
14 Concerning Dyslexia and Related Disorders (2007)," or a revised  
15 version of that publication approved by the department.

16 (b) A training program must require a training program  
17 participant who seeks a licensed dyslexia practitioner license to  
18 have completed at least five demonstration lessons described by  
19 Subsection (a)(10) and a participant who seeks a licensed dyslexia  
20 therapist license to have completed at least 10 demonstration  
21 lessons.

22 (c) The department, in consultation with the advisory  
23 committee, shall determine whether a training program meets the  
24 requirements of this section.

25 Sec. 403.107. EXAMINATION; RULES. (a) To obtain a license,  
26 an applicant must:

27 (1) pass a written examination approved by the

1 department under Subsection (b); and

2 (2) pay fees set by the executive commissioner.

3 (b) The department shall, in consultation with the advisory  
4 committee:

5 (1) identify and designate a competency examination  
6 that is related to multisensory structured language education and  
7 that will be administered at least twice each year by a professional  
8 organization that issues national certifications; and

9 (2) maintain a record of all examinations for at least  
10 two years after the date of examination.

11 Sec. 403.108. WAIVER OF EXAMINATION REQUIREMENT. The  
12 department, in consultation with the advisory committee, may waive  
13 the examination requirement and issue a license to an applicant who  
14 holds an appropriate certificate or other accreditation from a  
15 nationally accredited multisensory structured language education  
16 organization recognized by the department.

17 Sec. 403.109. INACTIVE STATUS; RULES. (a) The executive  
18 commissioner by rule may provide for a license holder to be placed  
19 on inactive status.

20 (b) Rules adopted under this section must include a time  
21 limit for a license holder to remain on inactive status.

22 Sec. 403.110. QUALIFIED INSTRUCTOR. To be considered a  
23 qualified instructor under this chapter, a person must:

24 (1) be a licensed dyslexia therapist;

25 (2) have at least 1,400 hours of clinical teaching  
26 experience in addition to the hours required to obtain a licensed  
27 dyslexia therapist license; and

1           (3) have completed a two-year course of study  
2 dedicated to the administration and supervision of multisensory  
3 structured language education programs taught by a nationally  
4 accredited training program that meets the requirements of Section  
5 403.106.

6           [Sections 403.111-403.150 reserved for expansion]

7           SUBCHAPTER D. PRACTICE BY LICENSE HOLDER

8           Sec. 403.151. PRACTICE SETTING. (a) A licensed dyslexia  
9 practitioner may practice only in an educational setting, including  
10 a school, learning center, or clinic.

11           (b) A licensed dyslexia therapist may practice in a school,  
12 learning center, clinic, or private practice setting.

13           Sec. 403.152. CONTINUING EDUCATION. (a) A license  
14 holder's license may not be renewed unless the license holder meets  
15 the continuing education requirements established by the executive  
16 commissioner.

17           (b) The executive commissioner, in consultation with the  
18 advisory committee, shall establish the continuing education  
19 requirements in a manner that allows a license holder to comply  
20 without an extended absence from the license holder's county of  
21 residence.

22           (c) The department shall:

23           (1) provide to a license applicant, with the  
24 application form on which the person is to apply for a license,  
25 information describing the continuing education requirements; and

26           (2) notify each license holder of any change in the  
27 continuing education requirements at least one year before the date

1 the change takes effect.

2 [Sections 403.153-403.200 reserved for expansion]

3 SUBCHAPTER E. LICENSE DENIAL; COMPLAINT AND DISCIPLINARY

4 PROCEDURES

5 Sec. 403.201. COMPLAINTS. Any person may file a complaint  
6 with the department alleging a violation of this chapter or a rule  
7 adopted under this chapter.

8 Sec. 403.202. PROHIBITED ACTIONS. A license holder may  
9 not:

10 (1) obtain a license by means of fraud,  
11 misrepresentation, or concealment of a material fact;

12 (2) sell, barter, or offer to sell or barter a license;

13 or

14 (3) engage in unprofessional conduct that endangers or  
15 is likely to endanger the health, welfare, or safety of the public  
16 as defined by executive commissioner rule.

17 Sec. 403.203. GROUNDS FOR DISCIPLINARY ACTION. If a  
18 license holder violates this chapter or a rule or code of ethics  
19 adopted by the executive commissioner, the department shall:

20 (1) revoke or suspend the license;

21 (2) place on probation the person if the person's  
22 license has been suspended;

23 (3) reprimand the license holder; or

24 (4) refuse to renew the license.

25 Sec. 403.204. LICENSE DENIAL, REVOCATION, OR SUSPENSION FOR  
26 CRIMINAL CONVICTION. (a) The department may deny a license or may  
27 suspend or revoke a license if the applicant or license holder has

1 been convicted of a misdemeanor involving moral turpitude or a  
2 felony. The department may take action authorized by this section  
3 when:

4 (1) the time for appeal of the person's conviction has  
5 elapsed;

6 (2) the judgment or conviction has been affirmed on  
7 appeal; or

8 (3) an order granting probation is made suspending the  
9 imposition of the person's sentence, without regard to whether a  
10 subsequent order:

11 (A) allows withdrawal of a plea of guilty;

12 (B) sets aside a verdict of guilty; or

13 (C) dismisses an information or indictment.

14 (b) A plea or verdict of guilty or a conviction following a  
15 plea of nolo contendere is a conviction for purposes of this  
16 section.

17 Sec. 403.205. HEARING. (a) If the department proposes to  
18 revoke, suspend, or refuse to renew a person's license, the person  
19 is entitled to a hearing before a hearings officer appointed by the  
20 State Office of Administrative Hearings.

21 (b) The executive commissioner shall prescribe procedures  
22 for appealing to the commissioner a decision to revoke, suspend, or  
23 refuse to renew a license.

24 Sec. 403.206. ADMINISTRATIVE PROCEDURE. A proceeding under  
25 this subchapter to suspend, revoke, or refuse to renew a license is  
26 governed by Chapter 2001, Government Code.

27 Sec. 403.207. SANCTIONS. (a) The executive commissioner,

1 in consultation with the advisory committee, by rule shall adopt a  
2 broad schedule of sanctions for a violation of this chapter.

3 (b) The State Office of Administrative Hearings shall use  
4 the schedule of sanctions for a sanction imposed as the result of a  
5 hearing conducted by that office.

6 Sec. 403.208. PROBATION. The department may require a  
7 license holder whose license suspension is probated to:

8 (1) report regularly to the department on matters that  
9 are the basis of the probation;

10 (2) limit practice to areas prescribed by the  
11 department; or

12 (3) continue the license holder's professional  
13 education until the license holder attains a degree of skill  
14 satisfactory to the department in those areas that are the basis of  
15 the probation.

16 Sec. 403.209. MONITORING OF LICENSE HOLDER. (a) The  
17 executive commissioner by rule shall develop a system for  
18 monitoring a license holder's compliance with the requirements of  
19 this chapter.

20 (b) Rules adopted under this section must include  
21 procedures to:

22 (1) monitor for compliance a license holder who is  
23 ordered by the department to perform certain acts; and

24 (2) identify and monitor license holders who represent  
25 a risk to the public.

26 Sec. 403.210. INFORMAL PROCEDURES. (a) The executive  
27 commissioner by rule shall adopt procedures governing:

1           (1) informal disposition of a contested case under  
2 Section 2001.056, Government Code; and

3           (2) an informal proceeding held in compliance with  
4 Section 2001.054, Government Code.

5           (b) Rules adopted under Subsection (a) must:

6           (1) provide the complainant and the license holder an  
7 opportunity to be heard; and

8           (2) require the presence of a representative of the  
9 attorney general or the department's legal counsel to advise the  
10 department or the department's employees.

11           Sec. 403.211. REINSTATEMENT. (a) A person may apply for  
12 reinstatement of a revoked license on or after the first  
13 anniversary of the date of revocation.

14           (b) The department may:

15           (1) accept or reject the application; and

16           (2) require an examination as a condition for  
17 reinstatement of the license.

18           Sec. 403.212. REPRIMAND; CONTINUING EDUCATION. (a) In  
19 addition to other disciplinary action authorized by this  
20 subchapter, the department may:

21           (1) issue a written reprimand to a license holder who  
22 violates this chapter; or

23           (2) require that a license holder who violates this  
24 chapter attend continuing education programs.

25           (b) The department, in consultation with the advisory  
26 committee, may specify the number of hours of continuing education  
27 that must be completed by a license holder to fulfill the

1 requirement of Subsection (a)(2).

2 [Sections 403.213-403.250 reserved for expansion]

3 SUBCHAPTER F. PENALTIES AND OTHER ENFORCEMENT PROCEDURES

4 Sec. 403.251. CIVIL PENALTY. (a) A person who violates  
5 this chapter, a rule adopted by the executive commissioner, or an  
6 order adopted by the commissioner under this chapter is liable for a  
7 civil penalty not to exceed \$500 for each occurrence.

8 (b) At the request of the department, the attorney general  
9 shall bring an action to recover a civil penalty authorized under  
10 this section.

11 Sec. 403.252. CEASE AND DESIST ORDER. (a) If it appears to  
12 the commissioner that a person who is not licensed under this  
13 chapter is violating this chapter or a rule adopted under this  
14 chapter, the commissioner after notice and an opportunity for a  
15 hearing may issue a cease and desist order prohibiting the person  
16 from engaging in the activity.

17 (b) A violation of an order under this section constitutes  
18 grounds for imposing a civil penalty under this chapter.

19 SECTION 2. The heading to Subtitle G, Title 3, Occupations  
20 Code, is amended to read as follows:

21 SUBTITLE G. PROFESSIONS RELATED TO HEARING, ~~AND~~ SPEECH, AND  
22 DYSLEXIA

23 SECTION 3. (a) An interim committee is created to study  
24 and recommend legislation to increase awareness of early detection  
25 and treatment of dyslexia and related disorders. The committee's  
26 study shall examine:

27 (1) early detection and intervention;

- 1           (2) access to treatment in rural areas of the state;
- 2           (3) the role of public education and higher education  
3 in detection and treatment;
- 4           (4) treatment for older students and adults; and
- 5           (5) any barriers related to accommodations for  
6 individuals with dyslexia and related disorders.

7           (b) The committee consists of the following nine members:

- 8           (1) two members who are senators, one of whom  
9 represents a rural area, appointed by the lieutenant governor;
- 10           (2) two members who are state representatives, one of  
11 whom represents a rural area, appointed by the speaker of the house  
12 of representatives; and
- 13           (3) five members appointed by the governor as follows:
- 14                (A) one member who represents an institution of  
15 higher education that offers courses in dyslexia and related  
16 disorders;
- 17                (B) one member who represents a nationally  
18 accredited training center;
- 19                (C) one member who is a certified academic  
20 language therapist;
- 21                (D) one member who is a public school dyslexia  
22 designee; and
- 23                (E) one member who is a parent of a student with  
24 dyslexia.

25           (c) The committee shall elect a presiding officer from among  
26 its members.

27           (d) The committee shall convene at the call of the presiding

1 officer.

2 (e) Committee members may not receive compensation or  
3 reimbursement of expenses for serving on the committee.

4 (f) Not later than December 1, 2010, the committee shall  
5 report the committee's findings and recommendations to the  
6 lieutenant governor, the speaker of the house of representatives,  
7 and the governor.

8 (g) Not later than the 60th day after the effective date of  
9 this Act, the lieutenant governor, the speaker of the house of  
10 representatives, and the governor shall appoint the members of the  
11 interim committee created under this section.

12 (h) This section expires September 1, 2011.

13 SECTION 4. Not later than November 1, 2009, the  
14 commissioner of the Department of State Health Services shall  
15 appoint the initial members of the advisory committee under Section  
16 403.051, Occupations Code, as added by this Act.

17 SECTION 5. Not later than June 1, 2010, the executive  
18 commissioner of the Health and Human Services Commission shall  
19 adopt final rules under Section 403.052, Occupations Code, as added  
20 by this Act.

21 SECTION 6. The Department of State Health Services shall  
22 issue a licensed dyslexia therapist license to an applicant under  
23 this section who:

24 (1) applies for a license under this section not later  
25 than December 31, 2012;

26 (2) not later than November 30, 2012, meets the  
27 requirements of Sections 403.105(a)(2)-(5), Occupations Code, as

1 added by this Act;

2           (3) submits any other information required by the  
3 department by rule; and

4           (4) pays the application fee.

5           SECTION 7. (a) Except as required by Subsection (b) of  
6 this section, this Act takes effect September 1, 2009.

7           (b) Section 403.101 and Subchapters E and F, Chapter 403,  
8 Occupations Code, as added by this Act, take effect September 1,  
9 2010.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 461 was passed by the House on May 5, 2009, by the following vote: Yeas 131, Nays 13, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 461 on May 29, 2009, by the following vote: Yeas 140, Nays 2, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 461 was passed by the Senate, with amendments, on May 23, 2009, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor